IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

CENTRAL EXCISE APPEAL NO. 16 OF 2004

The Commissioner of Central
Excise, Mumbai-V. ... Appellant.

V/s.

M/s.Shefjo Plastics. ... Respondent.

P.S.Jetly i/b. T.C.Kaushik for the appellant.

Mr.Shabbir Zaveri, representative of the
respondent is present in person.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 29th September 2005.

P.C. :

. Heard learned counsel for the appellant.

. By this appeal under section 35G of the Central Excise Act, 1944 the Revenue has raised following questions of law:

1. Whether the Tribunal is correct in concluding that the option is available to the assessee either to avail exemption under notfn.1/93 dt.28.02.93 or to pay full duty on final product and avail modvat credit on inputs under Rule 57A?

2. Whether the Tribunal is correct in altering the expression in Rule 57C from final product is exempt from whole of duty excise 'to' final product avails exemption from whole of duty of excise leviable thereon in order to allow the assessee to avail option?

. Both the questions referred to above are covered by the judgments of the Apex Court in the

case of **C.C.E. & C., Vadodara v. Narmada Chematur Pharmaceuticals Ltd.**, 2005 (179) ELT 276 (SC); **Ichalkaranji Machine Centre Pvt.Ltd. v. C.C.E., Pune**, 2004 (174) ELT 417 (SC) and **C.C.E. & C. (Appeals), Ahmedabad v. Narayan Polyplast**, 2005 (179) ELT 20 (SC). In view of the observations made by the Apex Court in the above-referred judgments, no substantial question of law is involved. Appeal is dismissed in limine with no order as to costs.

(J.P.DEVADHAR, J.) **(V.C.DAGA, J.)**